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COOLEY GODWARD KRONISH LLP			LUX, MICHAEL P	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/680,808	BEALKE ET AL.	
	Examiner	Art Unit	
	MICHAEL LUX	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10/06/03.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-17 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/26/02</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This communication is a First Action Non-Final on the merits. Claims 1-17, as originally filed, are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being taught by Seiden (2002/0038293).

As per **claim 1**, Seiden teaches a method for settling disputes, the steps of:

a first party to a dispute between the first party and a second party communicating to a third party details as to a settlement of a dispute to be funded by a disbursal of funds (¶ 14, line 8 teaches “electronic transmittal of settlement documents and payment” where there is a dispute between two parties and the third party is an online ADR system);

the third party assigning a unique identifying designator to the settlement details (¶ 218, lines 1-2 teach both “session level and user level access codes are unique identifiers”, Examiner interprets the settlement details to be included in the session);

making the settlement details available for electronic access from the third party by the second party by use of the designator and communicating the designator to the second party (¶’s 229-230 teach notification emails from the 3rd party to the other parties that include the unique session identifiers and user identifiers);

the second party using the designator to electronically access the settlement terms (¶ 230, lines 3-5 teach that the unique identifiers [the designators] are required to log in);
the second party electronically transmitting either a settlement terms acceptance communication or a settlement terms rejection communication to the third party (¶ 129, lines 11-12 teach the sending of “invitation, confirmation, and rejection e-mails”, where Examiner construes a confirmation to be an acceptance of a settlement); and
the third party, after receiving the acceptance communication or the rejection communication, either causing the settlement to be funded by commencing an electronic funds transfer from a designated source if the communication is an acceptance communication and notifying the parties of the acceptance and funds disbursal commencement (¶ 19 teaches “the settlement module” where a subscriber can “generate respective settlement/release documents including, if desired, initiation of funds transfers via a virtual bank”), or, if the communication is a rejection communication, notifying the first party of the receipt of the rejection (¶ 129, lines 11-12 teach the sending of “invitation, confirmation, and rejection e-mails”).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-13 and 16 are rejected under 35 U.S.C. 102(e) as being taught by

Vaidyanathan (2004/0059596).

As per **claim 10**, Vaidyanathan teaches a system for assisting in evaluating a claim by a first party against a second party comprising:

- a. accumulating the selected details of claim settlements in a database (¶ 123, lines 1-2 detail a “search of cases with similar facts... using a conventional database search”, in order to perform this database search it is inherent that selected details of claim settlements be accumulated in a database);
- b. permitting access to the database through a computerized program to a database subscriber to request an evaluation of the claim (¶ 123, lines 1-2 detail a “search of cases with similar facts... using a conventional database search”, in order for the search to take place it is implied that access has been granted);
- c. requiring the database subscriber to supply a plurality of specific details as to the claim to the program (¶ 20, lines 9-10 explain that data is assembled from records provided by both parties. If this data is not supplied there could be no comparative search.);
- d. generating a search report by the program of settlements contained in the database involving selected details comparable to the specific details supplied by the subscriber (¶ 122, lines 8-9 explain that the process “retrieves and summarizes” the cases containing similar facts); and
- e. transmitting the search report to the database subscriber for use by the first party in evaluating the claim (¶ 122, lines 8-9 “display the outcomes of the similar cases”, where the outcomes of similar cases is construed to the search report and the display is construed to be transmitting the information).

As per **claim 11**, Vaidyanathan teaches a method for attempting to resolve a claim by a first party against a second party comprising the steps of:

- a. providing a database in which selected details of claim settlements are to be accumulated and which may be accessed by database subscribers (¶ 21, lines 9-10 teach a system matching “new disputes to ‘cases’ from a historical database”, for this step to take place the historic database must be provided with details of accumulated claims);
- b. accumulating selected details of claim settlements in the database (¶ 123, lines 1-2 detail a “search of cases with similar facts... using a conventional database search”, in order to perform this database search it is inherent that selected details of claim settlements be accumulated in a database);
- c. permitting access to the database through a computerized program to a database subscriber to request an evaluation of the claim (¶ 123, lines 1-2 detail a “search of cases with similar facts... using a conventional database search”, in order for the search to take place it is implied that access has been granted);
- d. requiring the database subscriber to supply a plurality of specific details as to the claim to the program in order to obtain the claim evaluation (¶ 20, lines 9-10 explain that data is assembled from records provided by both parties. If this data is not supplied there could be no comparative search.);
- e. generating a search report by the program of settlements contained in the database involving selected details comparable to certain of the specific details supplied by the subscriber (¶ 122, lines 8-9 explain that the process “retrieves and summarizes” the cases containing similar facts);

f. transmitting the search report to the database subscriber for use by the first party in preparing a proposed settlement of the claim (¶ 122, lines 8-9 "display the outcomes of the similar cases", where the outcomes of similar cases is construed to the search report and the display is construed to be transmitting the information);

g. preparing a proposed settlement by the first party of the claim utilizing the search report (via "adapting successful outcomes from the past to the current situation" ¶ 21, lines 10-11); and

h. transmitting the proposed settlement to the second party (¶ 63, lines 6-8 teach that "The parties are also given the opportunity to respond to the other party's submissions." In order for the other party to respond the submission [settlement] must be transmitted.)

As per **claim 12**, Vaidyanathan teaches the method in which the step of transmitting the settlement proposal to the second party comprises the first party transmitting the settlement proposal to an independent third party, and the third party transmitting the settlement proposal to the second party (¶ 19, lines 3-6, teach that "exchanges between the specialist and the parties are kept private to allow the specialist to draw out the position of the parties without causing direct conflict between each other.")

As per **claim 13**, Vaidyanathan teaches a method in which the database is maintained by the third party (Figure 2B shows a database server that is managed by a data manager. Examiner construes managing to be maintaining.)

As per **claim 16**, Vaidyanathan teaches a method for assisting in evaluating a claim asserted by a claimant with respect to an insurance policy issued by an insurer comprising the steps of:

a. an independent party accumulating selected details of insurance claim settlements in a database (¶ 21, lines 9-10 teach a system matching “new disputes to ‘cases’ from a historical database”, for this step to take pace the historic database must be provided with details of accumulated claims, ¶ 12, line 36 also explains that the system can be used in insurance transactions);

b. the independent party permitting selective access over a secure network to a database subscriber to request an evaluation of the claim (¶ 52 explains that from the welcome page the user must input its identification and password);

c. the independent party requiring the database subscriber to supply a plurality of specific details as to the claim to be evaluated in order to obtain the claim evaluation (¶ 20, lines 9-10 explain that data is assembled from records provided by both parties. If this data is not supplied there could be no comparative search.);

d. the database subscriber supplying the plurality of specific details as to the claim to be evaluated (¶ 20, lines 9-10 explain that data is assembled from records provided by both parties);

e. the independent party causing the database to be searched for settlements contained in the database having details generally comparable to the plurality of specific details (¶ 21 teaches a system that “matches new disputes to ‘cases’ from a historical database”, lines 9-10);

f. the independent party causing the generation of a search report of the settlements contained in the database having details generally comparable to the plurality of specific details supplied by the subscriber (¶ 21, lines 10-11 teach “adapting successful outcomes form the past to the current situation” where the outcomes of the past are past settlements); and

h. the independent party causing the transmission of the search report to the database subscriber over the secure network (¶ 122, lines 8-9 “display the outcomes of the similar cases”, where the outcomes of similar cases is construed to the search report and the display is construed to be transmitting the information).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seiden (2002/0038293) in view of Vaidyanathan (2004/0059596).

As per **claim 2**, Seiden fails to explicitly disclose the method including the step of the third party, subsequent to receipt of an acceptance communication, transferring selected information as to the dispute and its settlement details to a database adapted to accumulate selected information as to disputes and their settlement details.

However, Vaidyanathan, in the same field of endeavor [dispute resolution] teaches “match[ing] new disputes to “cases from a historical database” (¶ 21, lines 9-10). In order to have a historical database it is inherent that settlement details from prior disputes must have been transferred into the historical database.

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database of Vaidyanathan. Motivation to combine is

present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect.

As per **claim 3**, Seiden fails to explicitly disclose the method in which the database is maintained by the third party, and including the step of the third party making the accumulated selected details contained in the database available for access on a selective basis.

However, Vaidyanathan, in the same field of endeavor [dispute resolution] teaches that in order to access account history information a user must enter its identification and password information (¶ 51). Examiner concludes that by requiring an identification and password, the details of the database are available for access on a selective basis.

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect. Furthermore, by restricting access to the database, a third party may have a better opportunity to collect a profit by providing this service to only their customers.

As per **claim 4**, Seiden fails to explicitly disclose the method in which the selective basis includes the step of the third party causing a report of selected ones of the settlement details accumulated in the database to be generated and transmitted to a fourth party, in response to a request from said fourth party for a report containing settlement details relating to disputes having facts comparable to facts supplied by said fourth party in requesting the report.

However, Vaidyanathan, in the same field of endeavor [dispute resolution] teaches that a dispute resolution specialist [the forth party] has automatic tools such as an intelligent predictive

reasoning system [this is a search of the historic database] (¶ 21). Examiner construes use of these tools to be a request for a report.

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect.

As per **claim 5**, Seiden fails to explicitly disclose the method of claim 4 in which the fourth party is the same as either the first party or the second party.

However, Vaidyanathan, in the same field of endeavor [dispute resolution] teaches that the similar case search “retrieves and summarizes and displays the outcomes of the similar cases for all parties and the dispute resolution specialist to see.” (¶ 122, lines 8-10). Due to the uniformity of information dispersal, Examiner concludes that the forth party could be the same as the first party or the second party in the teaching.

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect.

7. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seiden (2002/0038293) and Dwyer (2002/0069182) in view of Examiner’s Official Notice.

As per **claim 6 and 14**, Seiden teaches a method for resolving a dispute between a first party and a second party through the use of a computer system, and in which the first party has

prepared a proposed settlement and transmitted the proposed settlement to the system, the steps of:

- a. the first party providing the second party with a link for a network site to be used for access to the system and a unique designator for accessing the system (¶'s 229-230 teach an email that is sent containing links as well as credentials necessary to log in including a session identifier and a user identifier);
- b. the second party accessing the system via the network site using the link (¶ 230 implies that upon receipt of the link, the party will use the link to access the site);
- c. the second party supplying identifying information required by the system for further access to the system (¶ 230 further implies that the parties will supply the identifying information required by the system);
- d. the system verifying the identifying information and, if correct, permitting further access to the system by the second party, or, if incorrect, denying further access to the system to the second party until correct identifying information is supplied (¶ 219, lines 2-4 teach username and password access that requires valid credentials before gaining site access); and
- e. if further access is permitted,
 - i. the system providing the second party with means to access the terms of a settlement and the options of accepting or not accepting the terms and requiring the second party to agree to supply settlement related data to the system if the settlement terms are accepted (¶ 219, lines 2-4 teach the access control scheme requiring a username and password, ¶ 14, lines 7-9 teach "electronic transmittal of settlement documents and

payment" where it is implied that settlement terms have been accepted prior to a transfer of funds);

with regards to the funds transfer Seiden further teaches the second part of step iv: providing the system with settlement funds transfer information requested by the system and second part of step v: initiating the electronic transfer of the settlement funds (via "generat[ing] respective settlement/release documents including, if desired, initiation of funds transfers via a virtual bank", ¶ 19, lines 3-4);

However, Seiden fails to explicitly disclose ii: the system terminating the second party's access if the second party does not agree to accept the settlement terms and supply the settlement related data. Dwyer, in the same field of endeavor [Alternative Dispute Resolution] teaches that each round of negotiation must be paid for. If the parties only pay for one round of making an offer [this is the default setting] and the offer is rejected by the second party, then both parties will no longer have access to make settlement offers (see ¶ 43).

It would have been obvious to one skilled in the art at the time of invention to combine the system of Seiden with the payment by step teaches of Dwyer. Motivation to combine is an incentive for negotiating parties to come to an agreement sooner and for more income for the dispute resolution service.

The Seiden/Dwyer combination fails to explicitly disclose the steps of:

- iii. if the second party agrees to accepts the settlement terms and supply the settlement related data, the system supplying the second party with a link for the second party to electronically sign the settlement terms;
- iv. the second party electronically signing the settlement terms;

v. the system sending a confirmation number for the transaction to second party ;
and

vi. the system sending an electronic message to at least one of the parties that the funds transfer has been initiated.

Examiner takes Official Notice that it extremely old and well known in the art of electronic business practices to provide a means for electronic signature, electronically signing a document, providing a confirmation number for a transaction and sending a confirmation email. It would have been obvious to one skilled in the art at the time of invention to combine the Seiden/Dwyer combination with Examiner's Official Notice. Motivation to combine is the necessity to generate a binding agreement and to have evidence of the transfer of funds. These features increase the likelihood of more people utilizing the service.

8. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seiden (2002/0038293) and Dwyer (2002/0069182) in view of Examiner's Official Notice and Vaidyanathan (2004/0059596).

As per **claim 7**, Seiden fails to explicitly disclose the method of including the step of the system, subsequent to receipt of an acceptance communication, transferring selected information as to the dispute and its settlement terms to a database adapted to accumulate selected information as to disputes and their settlement terms.

However, Vaidyanathan, in the same field of endeavor [dispute resolution] teaches "match[ing] new disputes to "cases from a historical database" (¶ 21, lines 9-10). In order to have a historical database it is inherent that settlement details from prior disputes must have been transferred into the historical database.

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of the Seiden/Dwyer combination with the historic database of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect.

As per **claim 8**, Seiden fails to explicitly disclose the method including the step of the system making the accumulated selected terms contained in the database available for access by parties, irrespective of whether such party has participated in settlements as to which selected information has been accumulated in the database, on a selective basis.

However, Vaidyanathan, in the same field of endeavor [dispute resolution] teaches that in order to access account history information a user must enter its identification and password information (¶ 51). Examiner concludes that by requiring an identification and password, the details of the database are available for access on a selective basis.

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect. Furthermore, by restricting access to the database, a third party may have a better opportunity to collect a profit by providing this service to only their customers.

As per **claim 9**, Seiden fails to explicitly disclose the method in which the selective basis includes the steps of a party requesting the system to provide a report containing settlement information relating to disputes having facts comparable to facts supplied by said party in requesting said report; and the system causing a report of selected ones of the settlement

information accumulated in the database and having facts comparable to facts supplied by said party in requesting the report to be generated and transmitted to said party in response to said request.

However, Vaidyanathan, in the same field of endeavor [dispute resolution] teaches "the search of cases with similar facts" (¶ 123, line 1) and retrieving and summarizing the outcomes of similar cases for all the parties to see (¶ 122, lines 8-10). Examiner construes accessing the report to be a request for the report.

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database search of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect. Furthermore, by restricting access to the database, a third party may have a better opportunity to collect a profit by providing this service to only their customers.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidyanathan (2004/0059596), Seiden (2002/0038293), and Dwyer (2002/0069182) in view of Examiner's Official Notice.

As per **claim 15**, Vaidyanathan teaches a method for the disposition of claims asserted between first parties and second parties comprising the steps of:

- a. an independent third party accumulating selected details of claim settlements in a database (¶21, line 10 teaches a historical database);

- b. the independent party permitting selective access to a database subscriber to request an evaluation of a claim (¶ 52 explains that from the welcome page the user must input its identification and password);
- c. the independent party requiring the database subscriber to supply a plurality of specific details as to the claim to be evaluated in order to obtain the claim evaluation (¶ 20, lines 9-10 explain that data is assembled from records provided by both parties. If this data is not supplied there could be no comparative search.);
- d. the database subscriber supplying the plurality of specific details as to the claim to be evaluated (¶ 20, lines 9-10 explain that data is assembled from records provided by both parties);
- e. the independent party causing the database to be searched for settlements contained in the database having details generally comparable to the plurality of specific details (¶ 21 teaches a system that “matches new disputes to ‘cases’ from a historical database”, lines 9-10);
- f. the independent party causing the generation of a search report of the settlements contained in the database having details generally comparable to at least some of the plurality of specific details supplied by the database subscriber (¶ 21, lines 10-11 teach “adapting successful outcomes from the past to the current situation” where the outcomes of the past are past settlements);
- h. the independent party causing the transmission of the search report to the database subscriber for use by the first party (¶ 122, lines 8-9 “display the outcomes of the similar cases”, where the outcomes of similar cases is construed to the search report and the display is construed to be transmitting the information);

- i. the first party preparing a proposed settlement which is based, at least in part, on the search report and which involves the transfer of settlement funds (via “adapting successful outcomes from the past to the current situation” ¶ 21, lines 10-11);
- j. the first party transmitting the proposed settlement to the independent party (¶ 63, lines 6-8 teach that “The parties are also given the opportunity to respond to the other party's submissions.” In order for the other party to respond the submission [settlement] must be transmitted.);
- p. the independent party transmitting selected details of the settlement terms to the database for use selectively in generating search reports subsequently (this step is implied by the historic database as disclosed in ¶ 21, line 10).

However Vaidyanathan fails to disclose all the elements of the claim. Seiden, in the same field of endeavor teaches:

- j. assigning a unique designator to the settlement proposal (¶ 218, lines 1-2 teach both “session level and user level access codes are unique identifiers”, Examiner interprets the settlement details to be included in the session);
- k. providing a second party with a link for a network site maintained by the independent party and the unique designator for accessing the proposed settlement through the site by using the link (¶'s 229-230 teach an email that is sent containing links as well as credentials necessary to log in including a session identifier and a user identifier);
- l. the second party accessing the network site by using the link (¶ 230 implies that upon receipt of the link, the party will use the link to access the site);

- m. the second party supplying identifying information required by the independent party to access the proposed settlement (¶ 230 further implies that the parties will supply the identifying information required by the system);
- n. the independent party verifying the identifying information and, if correct, permitting further access to the proposed settlement by the second party, or, if incorrect, denying further access to the proposed settlement to the second party until correct identifying information is supplied and verified (¶ 219, lines 2-4 teach username and password access that requires valid credentials before gaining site access);
- o. upon correct identifying information being supplied and verified, the independent party requiring the second party to supply settlement related data in order to continue further access to the proposed settlement;
 - i. upon the settlement related data being supplied, the independent party providing the second party with means to access terms of the proposed settlement and the options of accepting or not accepting the settlement terms, (¶ 219, lines 2-4 teach the access control scheme requiring a username and password, ¶ 14, lines 7-9 teach “electronic transmittal of settlement documents and payment” where it is implied that settlement terms have been accepted prior to a transfer of funds);
 - iii. upon the terms being electronically signed, the independent party requiring the second party to provide information required in order to transfer the settlement funds if not already provided (via “generat[ing] respective settlement/release documents including, if desired, initiation of funds transfers via a virtual bank”, ¶ 19, lines 3-4); and

iv. the independent party initiating the electronic transfer of the settlement funds (via initiation of funds transfers via a virtual bank”, ¶ 19, lines 3-4);

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect.

However, the Vaidyanathan and Seiden combination fails to explicitly disclose terminating the second party access to the proposed settlement if the terms are not accepted. Dwyer, in the same field of endeavor [Alternative Dispute Resolution] teaches that each round of negotiation must be paid for. If the parties only pay for one round of making an offer [this is the default setting] and the offer is rejected by the second party, then both parties will no longer have access to make settlement offers (see ¶ 43).

Examiner takes Official Notice that it extremely old and well known in the art of electronic business practices to provide a means for electronic signature, electronically signing a document, providing a confirmation number for a transaction and sending a confirmation email. It would have been obvious to one skilled in the art at the time of invention to combine the Vaidyanathan/Seiden/Dwyer combination with Examiner’s Official Notice. Motivation to combine is the necessity to generate a binding agreement and to have evidence of the transfer of funds. These features increase the likelihood of more people utilizing the service.

10. Claims 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidyanathan (2004/0059596) and Seiden (2002/0038293) in view of Examiner’s Official Notice.

As per **claim 17**, Vaidyanathan teaches a method for settling claims asserted by claimant/counsel with respect to an insurance policy issued by an insurance carrier comprising the steps of:

- b. the claims representative accessing a computerized system 114 which can access a proprietary database 117 containing a compilation of details of prior settlements of insurance claims and is capable of comparing details of the claim against details of prior claim settlements in order to generate a report as to comparable claim settlements (¶ 21, lines 9-11 teach a system that "matches new disputes to 'cases' from a historical database and then adapting successful outcomes from the past to the current situation");
- c. the claims representative 112 submitting claim details to the system 114 and requesting generation of a comparables report from the prior settlements of insurance claims information (¶ 61, lines 9-11 teach that sample resolutions from the system's case history can be used);
- d. the database 117 generating the comparables report and transmitting it to the claims representative 112 (¶ 122, lines 8-9 "display the outcomes of the similar cases", where the outcomes of similar cases is construed to the search report and the display is construed to be transmitting the information);
- e. the claims representative 112 formulating a proposed settlement based, at least in part, on the comparables report (via "adapting successful outcomes from the past to the current situation" ¶ 21, lines 10-11);
- f. the claims representative 112 transmitting the settlement proposal to the system 114, together with identity information as to a claimant/counsel 115 for use by the system 114 in authorizing access by the claimant/counsel 115 to the settlement proposal (¶ 63, lines 6-8 teach

that "The parties are also given the opportunity to respond to the other party's submissions." In order for the other party to respond the submission [settlement] must be transmitted.);

x. the edited specified settlement data is added to the details of prior settlements of insurance claims compilation of the database 117 so as to be subsequently accessible by database subscribers 118 on a selective basis for claim evaluation and settlement proposal formulation purposes (this step is implied by the presence of the historic database as disclosed in ¶ 21, line 10).

However Vaidyanathan fails to disclose all the elements of the claim. Seiden, in the same field of endeavor teaches:

g. the system 114 generating a unique designator for the proposed settlement by which the claimant/counsel 115 can access the proposed settlement by a link to the system 114 (¶'s 229-230 teach an email that is sent containing links as well as credentials necessary to log in including a session identifier and a user identifier, the presence of a unique identifier implies that one was generated);

h. the unique designator and the system link is provided to the claimant/counsel 115 (¶'s 229-230 teach an email that is sent containing links as well as credentials necessary to log in including a session identifier and a user identifier);

i. the claimant/counsel 115 accessing the system 114 by using the link provided by the claims representative 112 and providing the unique designator and information to confirm the identity information supplied by the claims representative 112 before the system 114 permits access to the settlement proposal by use of the unique designator (¶ 230 implies that upon receipt

of the link, the party will use the link to access the site, and the unique identifier information to access the proposal);

j. the system 114 verifying the identity information supplied by the claimant/counsel 115 and permitting access to the settlement proposal by the claimant/counsel 115 by use of the unique designator (¶ 219, lines 2-4 teach username and password access that requires valid credentials before gaining site access);

k. after access is permitted, the system 114 requiring claimant/counsel 115 to supply specified settlement related data pertaining to the claim being settled to the system database 117 (via “generat[ing] respective settlement/release documents including, if desired, initiation of funds transfers via a virtual bank”, ¶ 19, lines 3-4);

l. the claimant/counsel 115 supplying the specified settlement related data (¶ 19, lines 3-4 imply that the claimant will supply the required information);

m. the system 114 verifying that the claimant/counsel 115 has provided the specified settlement related data (¶ 219, lines 2-4 teach username and password access that requires valid credentials before gaining site access);

n. the system 114 providing claimant/counsel 115 with means to access the proposed settlement and the options of accepting or not accepting the settlement proposed settlement (¶ 219, lines 2-4 teach the means to access control scheme requiring a username and password, ¶ 14, lines 7-9 teach “electronic transmittal of settlement documents and payment” where it is implied that settlement terms have been accepted prior to a transfer of funds);

o. the claimant/counsel 115 accepting the terms of the proposed settlement (¶ 14, lines 7-9 imply that the claimant/counsel has accepted the terms of the settlement as they would not send funds otherwise); and

s. the system 114 initiating the electronic transfer of the settlement funds from an account designated by the carrier or the claims representative 112 to an account designated by the claimant/counsel 115 (via initiation of funds transfers via a virtual bank”, ¶ 19, lines 3-4).

It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Seiden with the historic database of Vaidyanathan. Motivation to combine is present as information about historic settlements in similar cases could provide all parties involved with a basis for negotiation and an idea of what to expect.

However, the Vaidyanathan and Seiden combination fails to explicitly disclose:

a. the carrier authorizing a claims representative 112 to investigate settlement of the claim;

Examiner takes Official Notice that insurance carriers authorize claims representatives to investigate settlement claims. It would have been obvious to one skilled in the art at the time of invention to combine the Vaidyanathan/Seiden combination in view of Examiner’s Official Notice. Motivation is to allow claims representatives to perform their job functions.

The Vaidyanathan and Seiden combination fails to explicitly disclose:

p. the system 114 providing claimant/counsel 115 with a link to electronically sign the proposed settlement;

q. the claimant/counsel 115 electronically signing the proposed settlement and providing the system 114 with information required to transfer the settlement funds;

r. the system 114 providing a confirmation number for the transaction to claimant/counsel 115;

t. the system 114 receiving notification from the source of the settlement funds when the funds transfer has been initiated;

u. the system 114 sending an electronic message to one or both of the claims representative 112 and claimant/counsel 115 that the funds transfer has been initiated;

Examiner takes Official Notice that it extremely old and well known in the art of electronic business practices to provide a means for electronic signature, electronically signing a document, providing a confirmation number for a transaction and sending a confirmation email.

It would have been obvious to one skilled in the art at the time of invention to combine the Vaidyanathan/Seiden combination in view of Examiner's Official Notice. Motivation to combine is the necessity to generate a binding agreement and to have evidence of the transfer of funds. These features increase the likelihood of more people utilizing the service.

The Vaidyanathan and Seiden combination fails to explicitly disclose:

v. the system 114 editing the specified settlement data to remove any information identifying the participants in the settlement,

Examiner takes Official Notice that it is old and well known to modify data to protect the identities of those involved. It would have been obvious to one skilled in the art at the time of invention to combine the Vaidyanathan/Seiden combination in view of Examiner's Official Notice. Motivation to combine is to protect the identity and privacy of previous users.

w. deactivating the unique designator;

Examiner takes Official Notice that it is old and well known to deactivate outdated access codes. It would have been obvious to one skilled in the art at the time of invention to combine the Vaidyanathan/Seiden combination in view of Examiner's Official Notice. Motivation to combine is to eliminate the possibility of information being stolen that is no longer necessary to the user.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anelli (2002/007283) teaches an employee dispute resolution system via a network, Holm (2003/0220863) teaches a discount electronic settlement method, Burchetta (6,954,741) teaches a computerized dispute resolution system and method, Sloo (5,895,450) teaches a method and apparatus for handling complaints, and Wamsley (5,956,687) teaches a personal injury claim management system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL LUX whose telephone number is (571)270-5104. The examiner can normally be reached on Monday through Friday from 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mpl

/John G. Weiss/
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